

Caltrans is the steward of California's State highways, and acts to protect the public's investment in the California highway system. Safety of the traveling public and permittees on California highway rights of way is our primary concern. Caltrans cooperates with other public agencies and with private parties to promote the safe use of our highways.

Caltrans issues encroachment permits to:

- Protect, maintain, and enhance the quality of the State highway system during and after permitted work,
- Ensure the safety of both the highway users and the permittees,
- Ensure that the proposed encroachment is compatible with the primary uses of the State highway system,
- Protect the State's and public's investment in the highway facility, and
- Ensure that temporary uses of State highway rights of way for special events, filming, etc. are conducted safely and with minimum inconvenience to the traveling public.

Encroachment permits are issued under the authority of law. In processing permit applications, Caltrans draws upon the extensive experience of its workforce in advising permittees to use safe procedures and equipment.

101 WHAT IS AN ENCROACHMENT PERMIT?

An *encroachment* is defined in the Streets and Highways Code as any tower, pole, pole line, pipe, pipeline, billboard, stand or building, or any structure, object of any kind or character not particularly mentioned in the section, or special event, which is in, under, or over any portion of the highway. "Special event" means any street festival, sidewalk sale, community-sponsored activity, or community-approved activity.

An encroachment permit issued by Caltrans, or issued by an authorized local agency in certain circumstances, is permissive authority for the permittee to enter State highway right of way to construct approved facilities or conduct specified activities. An encroachment permit is a valid contract when accepted by the permittee. Acceptance is acknowledged when any of the specified acts or work is performed under the conditions of the permit.

An encroachment permit authorizes only the permittee or the permittee's agent to perform work within the right of way and assignment to another party is prohibited. The encroachment permit is not a property right like an easement, nor does it confer a property right. Therefore, it does not transfer with the sale of real personal property. New property owners, of adjacent lands to State rights of way, must apply and obtain a new permit for any work to be performed. The issuance of a new permit should be for notice and record purposes only.

Encroachment permits are not issued to allow building structures to extend into the rights of way, e.g., bay windows, cornices, and decorative features that extend beyond the surface of a building. To do so would grant exclusive use of public property to private entities without compensation (exception: see Advertising Displays Section 501.2).

An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under, or over the State highway rights of way. Some examples of work requiring an encroachment permit are: utilities, excavations, encroachment renewals, advertisements (when allowed by statute), vegetation planting or trimming, surveys, mail boxes, driveways, installation or removal of tire chains for compensation, special events, and commercial filming activities.

102 STATUTORY AUTHORITY

Authority for Caltrans to control encroachments within the State highway rights of way is contained in the Streets and Highways Code starting with Section 660.

103 WHO NEEDS AN ENCROACHMENT PERMIT?

Individuals, contractors, corporations, utilities, cities, counties, and other government agencies proposing to conduct any activity within, under, or over the State highway right of way need an encroachment permit.

All entities, other than Caltrans' forces under a State highway construction contract with Caltrans and operating within their contract limits, consultants under Caltrans contract, and local agency forces with a delegation of a maintenance agreement operating within their jurisdictional boundaries and within the scope of their maintenance responsibilities, must obtain an encroachment permit before conducting any activity within, under, or over the State highway right of way.

104 PERMITS ISSUED BY CALTRANS

Only Caltrans has authority to approve and issue permits for activities on Caltrans' rights of way. Caltrans may delegate permit issuing authority to local agencies by agreement, but retains sole authority over the rights of way even after delegation. Agreements must contain provisions for city or county-issued encroachment permits for specific work.

105 STATE HIGHWAY PERMITS ISSUED BY CITIES OR COUNTIES

Cities or counties may issue routine State highway encroachment permits on specified State highway facilities located within their jurisdictional boundaries. Local agencies must be authorized by agreement (Appendix B) with Caltrans to issue permits.

106 WORK EXEMPT FROM WRITTEN PERMITS

Work within the State highway rights of way is exempt from permits only when it is performed under a State highway construction contract, a service contract that specifically exempts the contractor, delegation of a maintenance agreement, or an authorization by District Rights of Way when the work is located in non-operating rights of way. Also, activities authorized by the California Vehicle Code and not affecting highway operation or safety do not require an encroachment permit.

In certain instances placement of an encroachment may be authorized before issuing a written permit, e.g., verbal permission granted under emergency conditions. An application for a permit shall be submitted as follow-up after the emergency condition ceases. Work that can be completed under regular conditions is not considered emergency work. Law enforcement agencies may not be required to obtain encroachment permits for specified enforcement activities performed during the course of duty.

107 OFFICE LOCATIONS AND HOURS

Caltrans issues encroachment permits through twelve district permits offices. Applicants should direct inquiries and permit applications to the appropriate district permits office (see Appendix G). All applications for commercial film permits shall be submitted through the California Film Commission.

Government Code Section 11020 requires all State Agencies to be open for the transaction of business from 8:00 a.m. to 5:00 p.m. except weekends and holidays. Staggered lunch hours shall be utilized to provide continuous service throughout the day.

108 OVERVIEW OF THE ENCROACHMENT PERMIT PROCESS

The encroachment permit process is summarized generally in the flow chart in Figure 1.1.

Permitted activities range from single-family residential driveway connections to multi-million dollar construction projects. Applications for various permit categories have different review and approval processes, but in all cases the permit engineer must follow appropriate policies and procedures.

An application for an encroachment permit must be on a current Caltrans form (TR-0100) and signed by the owner or an authorized representative whose authority is validated by a letter or contract. In situations where a long-term lessee is developing land, e.g., a hotel, the permit to construct access may be issued to the lessee. When short-term leases exists, the property owner shall be the applicant.

Table 1.0
Encroachment Permit Application package submittal Requirements

The Encroachment Permit Application package should contain the following information (when applicable) listed below:

A California Registered Engineer, except for Utility Plans, shall sign and stamp submitted plan set sheets.

Six sets of folded plans are required, in dual units (english and metric) or in metric units shall be submitted within the package, utility plan sets may be in english units.

1. Index Map (location, North Arrow, scale and index)
2. Site plan
3. Cross sections and profiles of trenches, roadway or other improvements
4. Contingency plans (dealing with encounters of contamination)
5. Detail Sheets
6. Drainage plan
7. Electrical plans
8. Environmental documentation
9. Grading plan
 - a) Contour grading plan
 - b) Profile and super-elevation plan
10. Hydrology map and calculations
11. Landscaping
 - a) Existing and proposed
 - b) Irrigation facilities
12. Materials (lengths and sizes of proposed conduits, pipes or improvement)
13. Planting and irrigation plans
14. Street improvement plan
 - a) Distances (centerline to edge of pavement, centerline to proposed improvement, property lines, State R/W lines)
 - b) Existing pavement (lane lines, shoulders, curbs & gutters, sidewalks, elevations - invert and top)
 - c) Striping plan
 - d) Signal & Lighting plan
 - e) Traffic control plan
15. Storm Water Pollution Control plans
16. Structural plan and calculations
17. Traffic impact data
18. Utility plan
 - a) Existing utilities and proposed (differentiation between existing and proposed, elevations - invert and top, clearances)
19. Notes
 - a) General notes
 - b) Construction notes
 - c) Material notes
 - i) Types
 - ii) Quantities
 - iii) Locations

108.1 Special Funded Projects (See Project Development Procedures Manual)

Special funded projects involve work in which roles and funding responsibilities for project development and construction are either borne by local or private entities, or are shared by local or private entities and Caltrans. The project cost within the State right of way determines whether Project Development or Encroachment Permits is the responsible authority (Deputy Directive DD-23, dated 6/28/94).

Projects for work costing over \$1,000,000 within the State rights of way and financed with a sales tax measure, locally funded non-sales tax, or private funds are called Special Funded Projects. Project Development assumes responsibility for these projects including obtaining encroachment permits and executing cooperative or highway improvement agreements (Figure 1.2).

Encroachment permits shall not be issued for projects funded by local or private entities without the district permit office receiving a copy of the fully executed cooperative or highway improvement agreement (Section 202.3).

Similar funded projects that are 100% funded and constructed by either a local agency, sales-tax measure sponsor, or a private entity with construction costing \$1,000,000 or less within the existing or future State highway rights of way are called Encroachment Permit Projects. They normally do not require a cooperative or highway improvement agreement and are processed through the district encroachment permit office (Figure 1.3). When construction costs exceed \$300,000 in the rights of way, the District Construction Office shall provide a State representative for overseeing construction work.

Utility projects and drainage easement projects, regardless of the cost, are encroachment permit projects administered by the District Encroachment Permit Engineer.

Projects financed with State and special funds are called Jointly Funded or Cooperative Projects. The cooperative agreement identifies funding ratios and the responsible administrative authority.

Special Funded Projects include the following (see Special Funded Projects--Appendix E):

- * **Local Sales-Tax Measure Projects:** Projects funded 50% or more from local sales-tax revenues with construction costs greater than \$1,000,000 and in an existing and/or future State highway right of way that are not in State programming documents (STIP, SHOPP, TSM or Toll Bridge Program). One or more cooperative agreements between Caltrans and the Sales-Tax-Measure Authority will be required.
- * **Locally Funded Projects:** Projects that are Local agency sponsored projects (non-sales tax measure) on the State Highway System with construction costs greater than \$1,000,000 in the existing and/or future State right-of-way that are not in a State programming document. Funds may be generated by developer fees and contributions, assessment districts, local share of State gas tax, sales-tax revenues, local property tax, local federal aid, non-highway Federal programs and SLTPP (State and Local Transportation Partnership Program). One or more cooperative agreements between Caltrans and local agency will be required.

- * **Privately Funded Projects:** Projects on the State Highway System sponsored by a nonpublic agency with construction costs greater than \$1,000,000 and are in existing and/or future State highway right-of-way that are not in a State programming document. A Highway Improvement Agreement (HIA) accompanied by an Escrow Agreement, if applicable, will be required for all Privately Funded Projects.
- * **Public Toll Road Projects:** (Not the "Privatization" Toll Road Projects) are defined as those projects authorized under Sections 188.4, 531, 541 & 561 of the Streets and Highways Code. One or more agreements between the State and the Toll Road Authority will be required to cover responsibilities and funding that will include maintenance, operations, and acceptance into the State Highway System.
- * **Jointly Funded or Cooperative Projects:** Projects that involve combinations of special funds (sales-tax measure, local or private) and funding contained in State programming documents. The roles, responsibilities, and funding shall be defined in one or more cooperative agreements, regardless of the amount contributed by either the project sponsor or Caltrans.
- * **Encroachment Permit Projects:** Projects on the State Highway System that are 100% funded and constructed by either a local agency, Sales-tax measure sponsor, or a private entity with construction costs of \$1,000,000 or less within the existing or future State Highway right-of-way. Some types of encroachment permits require cooperative agreements or highway improvement agreements.

Utility projects and drainage easement projects shall continue to be considered Encroachment Permit Projects regardless of contraction cost.

Only Encroachment Permit Projects should be administered entirely by the Office of Encroachment Permits. Other Special Funded Projects are handled mainly by other Caltrans functions such as Planning, Project Development, Right of Way, etc. and are issued an encroachment permit just before construction begins. Encroachment Permit staff should not expend more than one hour on the whole process of permit issuance for non-Encroachment Permit Projects. Any effort expended by encroachment permit staff on non-Encroachment Permit Projects must be charged to that project Expenditure Authorization (EA) and not to permit EAs.

All Special Funded Projects require the applicant to obtain an encroachment permit whenever the project sponsor, their consultant or contractors, work within the existing State highway right-of-way. Application requirements are shown in Table 1.1.

Responsibilities for obtaining encroachment permits for design and construction of local sales-tax measure, locally funded non-sales tax, and privately funded projects costing more than \$1,000,000 (in existing or future State right of way) are part of the project development process and are outlined in the Cooperative Agreement (Sales tax or Local Funded Projects) or the Highway Improvement Agreement (Privately Funded Projects).

Encroachment permits shall not be issued for projects funded by local or private entities and costing more than \$1,000,000 without the district permits office receiving a copy of the fully executed cooperative or highway improvement agreement.

Similar funded projects costing \$1,000,000 or less are called Encroachment Permit Projects. They are processed through the district encroachment permit office.

108.2 Maintenance Work Performed by Volunteers

The Adopt-A-Highway (AAH) program allows: private litter removal, seedling tree planting, wildflower planting, graffiti removal, Mission Bell placement, and other privately funded projects as approved by Caltrans in the State highway right of way. Encroachment permits issued for AAH projects are exempt from permit fees and usually are issued for a two-year term. Wildflower permits may be issued for one year or less (for additional information see Section 501.4 and the publication titled “Caltrans Adopt-A-Highway”).

Program participants may include: individuals, businesses, corporations, and organizations. Excluded from participation are entities that advocate, violence, violation of the law, or discrimination based upon race, religion, color, national origin ancestry, physical handicap, medical condition, marital status, age, or sex. Also excluded from participation are individuals, businesses, or organizations involved in the distribution, display, advertisement, or promotion of pornography, including those web sites that provide pornographic materials.

Applications for an AAH project are received and processed by the District AAH Coordinators. They respond to all program questions and conduct all technical reviews. The minimum age requirement for Adopt-A-Highway participation is sixteen years old. An encroachment permit is usually issued by the permit engineer with the recommendation of the AAH Coordinator. At the discretion of the District Permit Engineer, this responsibility may be delegated to the AAH Coordinator. Records associated with the project are microfilmed, and the project is closed-out when the permit expires.

Renewal of an expiring AAH permit normally is accomplished by issuing a new permit rather than extending the existing permit.

A Consent Letter may be issued by the Maintenance Regional Manager for one-day highway cleanup, or used for weed control and landscape maintenance in the right of way fronting upon an owner's property.

Table 1.1

Application Package Submittal Requirements for Special Funded Projects

The Encroachment Permit package shall contain the information listed below for permit issuance on Special Funded Projects:

1. A copy of the Approved Project Initiation Report.
2. A copy of the fully executed Cooperative or Highway Improvement Agreement.
3. Right of Way Certification, including high and low risk utility clearances.
4. Written substantiation by the functional reviewing unit that all comments and revisions requested have been addressed.
5. All Plan Sheets, except for Utility Plans, are signed and stamped by a California-Registered Engineer.
6. The proper departmental functional unit has signed off on all specialty design plan sheets (signalization, signing, striping, electrical, etc.).
7. Construction oversight information provided (E.A, Resident Engineer's name, location, and phone number).
8. Seven (7) sets of folded plans, in dual units (english & metric) or in metric units shall be provided, reduced copies are preferred. Additional plan sets may be required prior to issuance of the permit, depending on the type of project.
9. Functional reviewing units requiring a copy of the permit package shall submit their request in writing.
 - ◆ Normal distribution of the permit package:

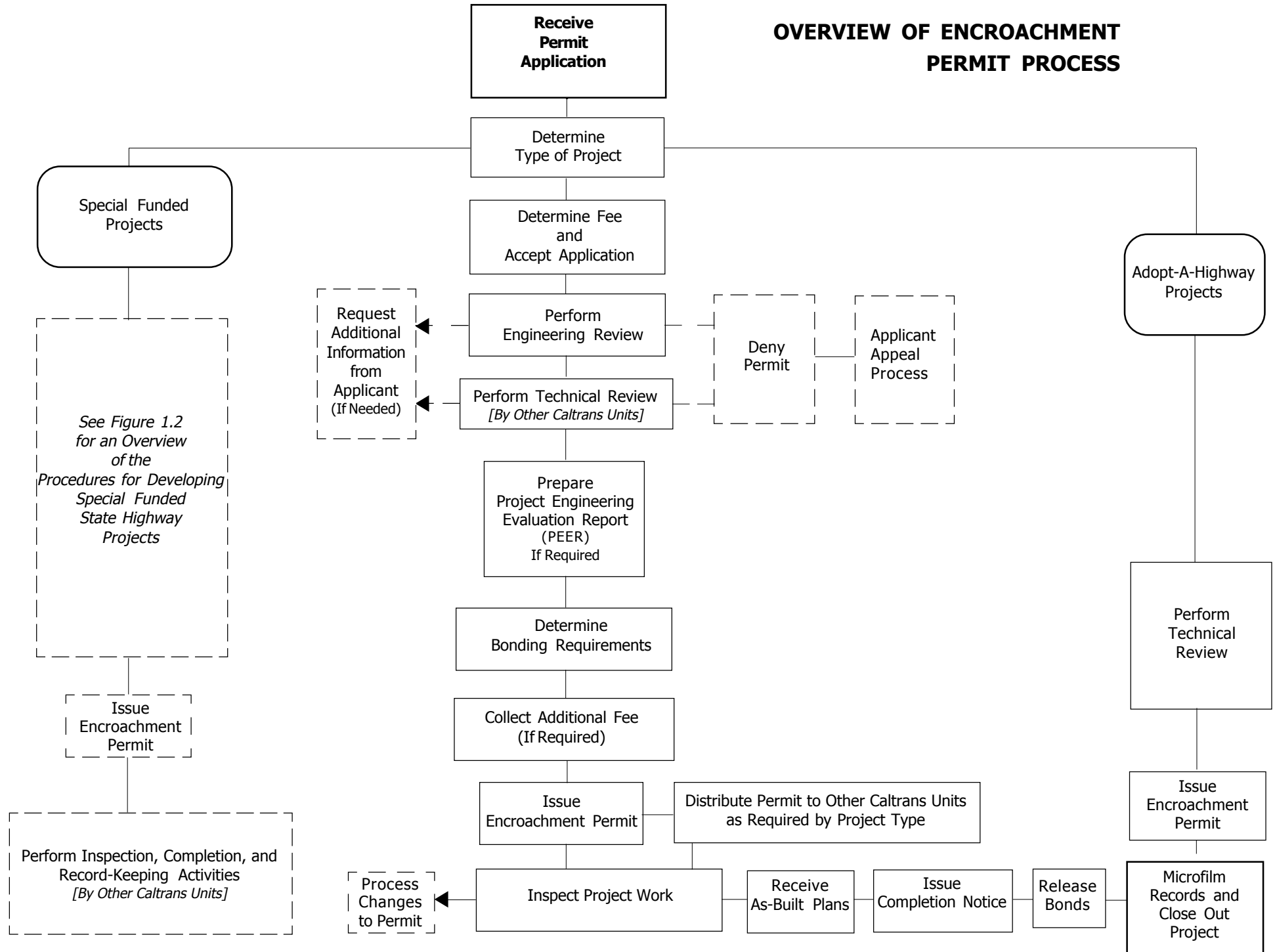
Maintenance Regional Manager – 1	Project Development – 1
District Construction Division – 2	Permits Office – 1
Permittee – 1	Permittee's Contractor – "DP"
 - ◆ If applicable, also include:

Traffic Electrical – 1	HQ Structures – 1
Structures Construction – 1	
10. A completed Standard Encroachment Permit Application from the Applicant.
11. Memo/letter from Project Development Senior transmitting above needed items and indicating that the project has addressed all concerns by departmental functional units and is "ready to proceed".

Additional Information for the Applicant:

1. Applicant's contractor will be required to obtain an Encroachment Permit, coded "DP."
 - a. The cooperative agreement shall contain a fee waiver statement, otherwise the Contractor will be required to pay the encroachment permit hourly rate for the total actual time of inspection and oversight expended.
 - b. The Applicant shall provide substantiation that the Contractor has met the Bonding requirements in Sec. 3-1.02 of Caltrans' Standard Specifications and shall be included within the Contractor's Permit.

OVERVIEW OF ENCROACHMENT PERMIT PROCESS



Task and Funding Responsibilities:

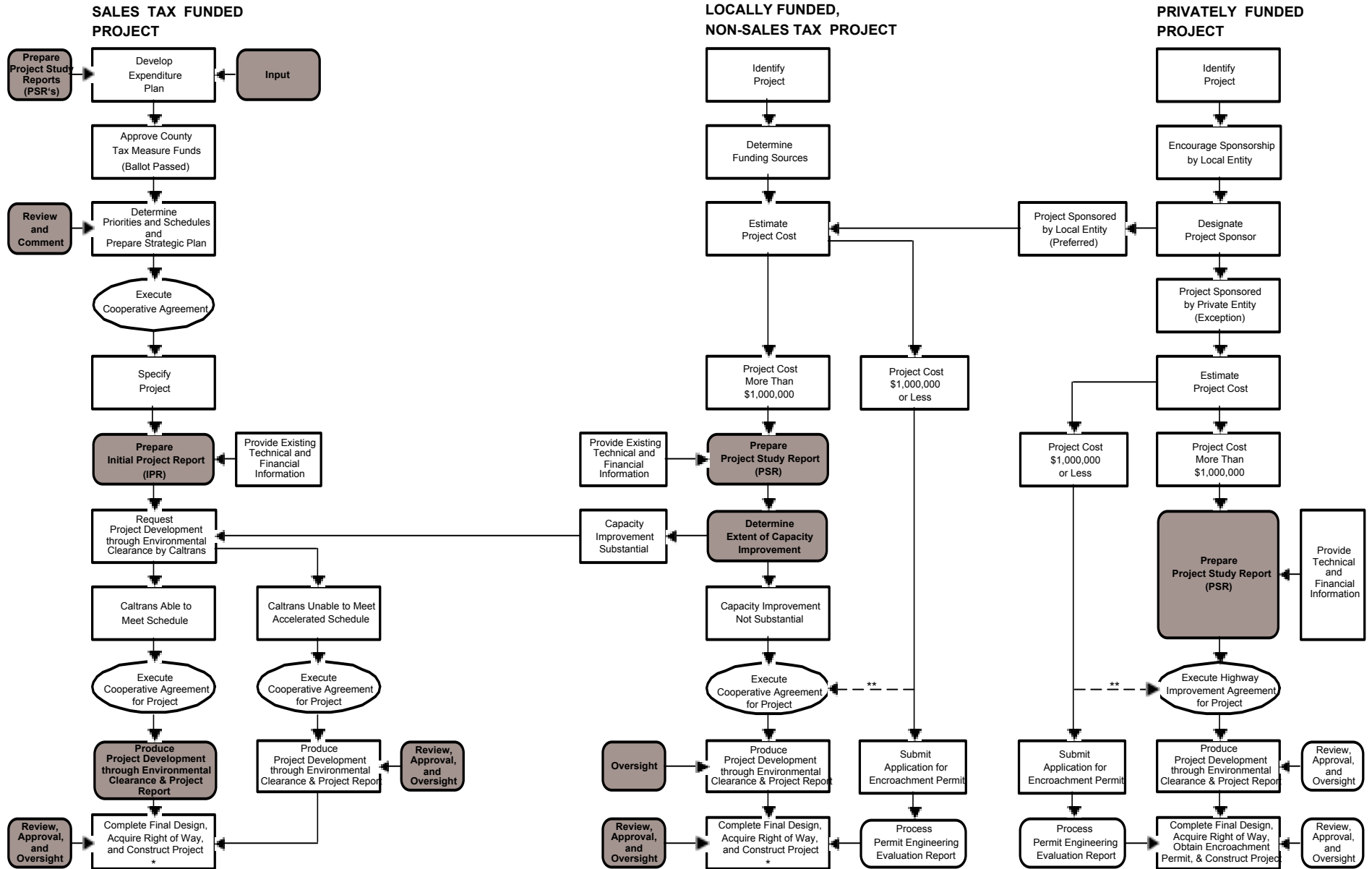
Project Sponsor Task
Funded by Project Sponsor

Caltrans Task
Funded by Project Sponsor

Shared Task and
Shared Funding

Caltrans Task
Funded by Caltrans

Figure 1.2
SPECIAL FUNDED STATE HIGHWAY PROJECTS
Task and Funding Responsibilities



Encroachment Permit Process < \$1,000,000

